

The Nation.

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The Week.

THE Senate amendments to the Ku-klux bill, which the House cannot swallow, are of a most extraordinary kind. As the bill stood, it made it a high crime "to interfere, by threats or violence, with the person or property of a United States officer on account of his discharge of his duty;" but the Senate made it read, "while engaged in the lawful discharge of his duty," thus making United States officers, including all persons in the service of the Government, a privileged class. Another amendment authorizes the President to use the army and navy whenever the conspiracies or combinations shall seem to him "to obstruct the equal and impartial administration of justice." Think of leaving such a point to be decided by one man, and giving his decision such momentous consequences. Besides allowing him to use the army and navy, however, he is also to be allowed to use "such other means as he may deem necessary" for the suppression, etc. Under which clause he might seize and confiscate live stock. Twenty Senators, headed by Mr. Morton, actually voted for entrusting him with these amazing powers till March, 1873, or in other words, till after the next Presidential election, in which he will probably be a candidate; but this was a little too much. The country is indebted to Messrs. Trumbull and Schurz in the Senate, and to Mr. Garfield in the House, for the strong and able opposition to this reckless and unscrupulous legislation. The bill will perhaps pass, but if any attempt is made to enforce it, the only effect will be to cover its authors with even deeper disgrace than that under which they now labor.

We have commented elsewhere at some length on the main features of this extraordinary bill, the passage of which would certainly, were it not for the strong hold which legal habits still have on the great body of the people, reduce the Constitution to the level of the constitutions of France—that is, make it a mere expression of the opinion of the majority for the time being as to what is convenient or what is in accordance with the eternal fitness of things. Mr. Sumner has distinguished himself in this debate in the Senate by more than ordinary absurdity. We use the term in its logical sense, and not as a mere term of abuse. He has spent a good deal of time of late denouncing the President as a "colossus of ignorance," and various other colossal things; he has arraigned him formally in the Senate, too, within one short month, as guilty of no less usurpation of power than declaring war on a friendly State, without the knowledge or consent of Congress; and with having contracted obligations, in the nature of treaties, with foreign powers, through the medium of agents unknown to the Constitution and the laws; and with having, in short, to use Mr. Sumner's own language, in "Naboth's Vineyard," "offered violence to Dominica, violence to Hayti, violence to Public Law, including the violence to the Constitution of Dominica, and also to a treaty between Dominica and Hayti, crowned by violence to the Constitution of the United States." More recently still, he has denounced him as the "head of a Ku-klux" operating against the Dominican blacks. It seems scarcely credible, after this, but it is nevertheless strictly true, that Mr. Sumner, the author of this denunciation, has, within a week, in the Senate, voted for a bill conferring on the dangerous, unscrupulous person whom he thus denounced the right of suspending the habeas corpus and proclaiming martial law in any part of the Union, for a variety of vague and ill-defined reasons, of the existence of which he, "the colossus of ignorance," is to be the sole judge.

The speech in which this remarkable vote was defended was enough to make the orators of the Folies-Bergères, including Citizen Blanqui himself, turn pale with envy. As "to the cry of centralism or, it may be, of imperialism," he scorned it. "These are terms," said

he, "borrowed from France, where this abuse has become a tyranny, subjecting the most distant communities even in the details of administration to central control." "No such tyranny is proposed among us, nor any interference of any kind with matters local in character. The nation will only enter the State as the safeguard of rights national in character, and then only as the sunshine, with beneficent power and, like the sunshine, for the equal good of all. As well assail the sun because it is central—because it is imperial. . . . Give me the centralism of liberty! Give me the imperialism of equal rights!"

We do not hesitate to say that, if oratory of this kind on a great constitutional question really affected any considerable portion of the people or shook their ancient and priceless respect for the forms of law and fixed rules of interpretation, we should know that the reign of loafers, blackguards, and visionaries, in every city in the Union, was not far off, and that Tweed, and Fisk, and their like would, before long, have Sumner, and Phillips and their like, chopping logic, under a strong guard of "brutal mercenaries," in the Dry Tortugas, or some other place of security. There was a time, in the old days of corporal punishment, when an upright and well-informed pedagogue would have soundly whipped any boy of over fourteen who stood up before him and professed to believe that centralism, or its product, imperialism, was introduced in France, or any other country, for its own sake; or that, wherever these exist, they were not begun for precisely the same reasons as are now urged in defence of the Ku-klux Bill—that is, for the protection of life and property in disturbed districts, or, as it is called in Continental Europe, "the maintenance of order," and for the preservation of, or strengthening of, national unity. It was for the sake of union that centralization began in France, and it was for the sake of order that she placed her neck under the heel of a blood-stained imperialism.

That noble old pedagogue would have again chastised the boy if he had professed to believe that any government which undertakes the policing of a region can long avoid undertaking all other details of administration. Police is the basis of government, and surely draws all other things after it; and, to police thoroughly, you must, sooner or later, take all the rest of the machinery of government into your hands. So has it been everywhere and in all ages; so will it be here, if the crazy theories on which it is now proposed to pacify the South receive the support of the American people. Mr. Sumner might as well cry, "Give me the sunshine of the dungeon; give me the purity of the brothel; give me the logic of the lunatic asylum; give me the agility of old age and the experience of extreme youth," as cry, "Give me the centralism of liberty and the imperialism of equal rights." There is only one short way of characterizing such talk, and to that we do not choose to resort. The *Tribune* says he supported this bill "with fire," meaning thereby to pay him a compliment. It might as well compliment an oculist by saying that he removed a cataract in a burst of passion, or of a doctor that he amputated at the hip-joint with oaths and execrations. The work of legislating for the South requires, above all else—we might almost say to the exclusion of all else—patience, calmness, and common sense. More delicate or momentous work mortal brains have never gone about. It is not the life and limbs of the negroes of the South that it concerns, but the liberty and progress of countless generations yet unborn of both blacks and whites, and the success of the greatest push for happiness the race has ever made.

There has been a decided reaction in the President's favor since the publication of his last message, leaving the San Domingo matter to the judgment of Congress and the people. That it should be possible for him to win "golden opinions" simply by abandoning a course which the public had all but unanimously condemned, and which had come near splitting up the party hopelessly, and which he had per-

sisted in for nearly two years, shows how easy it is for the President to retain popular favor. As might have been expected, however, the Administration organs are trying to get more out of the reaction than it contains, and would fain have us believe that the San Domingo scheme is gaining ground in the public mind also. So we are assured that everybody except a few disappointed politicians are very anxious for it.

The United States Supreme Court decided a year ago that the Legal Tender Act was unconstitutional as to contracts made before its passage, but as only seven judges sat on the bench when the case was heard, and the decision was given by only a majority of one, Attorney-General Hoar moved for a rehearing as soon as the two vacant places were filled. We presented some of the political objections to this at the time (April 7, 1870), and we presume most of our readers were relieved when the Court was soon after prevented passing on the application by the withdrawal of the appeal. The matter is now coming up once more before a full bench of nine judges, and the Court has ordered the question both of the constitutionality of the law as to contracts made before its enactment, and as to contracts made after its enactment, to be argued by the Attorney-General and Mr. Clarkson Potter. The rehearing on the first point—the constitutionality of the law as to contracts made before its passage—is an acknowledgment by the Court of the soundness of the arithmetical view of its powers, namely, that the claims of its decisions to popular respect depend for their validity on the number of judges who concur in them. Considering that Congress has the right to increase the number of judges at pleasure, it is hardly short of suicidal for the Court to give any countenance to the notion that nine judges have power which seven have not, or that a majority of three can give weight to a judgment which a majority of one could not give it. We therefore look on the reopening of the question of the applicability of the Legal Tender Act to contracts made before February, 1862, as a great misfortune.

The Florida carpet-bagger, if not typical of the species, is one of the most formidable competitors for this distinction, as good judges, who have had experience, will readily admit. There has been a falling out between two of the most conspicuous—the present United States Senator Osborn, and the Hon. C. M. Hamilton, Representative of Florida in the Fortieth and Forty-first Congresses, who incurred Osborn's enmity by successfully resisting a railroad subsidy scheme in which the latter was heavily interested. Hamilton makes affidavit that he was approached with all sorts of the most tempting bribes by the Osborn ring to secure his influence in passing the necessary bill through Congress, and he prints three letters from Osborn's brother—said to be a doctor of divinity, residing in Brooklyn—which should become classic in the literature of political swindling. Hamilton was invited to choose between half-a-million of stock in the "Great Southern Railroad Company," a readjustment of the Federal offices and reapportionment "to his better satisfaction," his return to Congress, and support in all his measures there, and permanent attorneyship of the road at such salary as he might name—all this on the one hand, and political ruin on the other. The Governor's name is freely used by the writer as one of their accomplices, and the leading politicians who are not to be reckoned among them are few indeed.

A curious incident marked, during the week, the usually dull and uninteresting routine of legislation at Albany. During the whole session, Tweed has had everything his own way, the Democrats furnishing him with the constitutional majority without question or murmur. One of them, however—I Irving, an ex-pugilist—took it into his head to punch the head of a brother member, which roused the sensibilities of the country Democrats to such a degree that Irving, dear as he is to the city Democracy, had to resign to avoid expulsion. This deprived Tweed of his necessary majority, and the Republican members of Assembly, sixty-four in all, then drew up a declaration, which they all signed, solemnly pledging themselves to oppose three or four of Tweed's most nefarious measures then pending. Now, we venture to say, not ten men of ordinary intelligence in the State expected that they would hold out to the end, particularly after it was

announced that Tweed was ready to give \$75,000 for a vote. The principal subject of curiosity was, who would first give way. In a day or two, a sinner named Winans, an employee of the Erie Railroad and a member from Chautauqua County, was found ready to vote with the Democrats as often as they asked him; and he has done so. Tweed has got all his bills through. One does away with the registry law in this city to all intents and purposes; the other gives the complete disposition of the taxes to four Ring-leaders for two years certainly; and so on. The whole thing is a shameful farce, and nothing in it is more of a farce than the spasmodic attempt of the Republicans to be virtuous.

The position of Winans, the sinner who has got the money, if one was to believe the *Tribune* and the *Times*, is one of frightful disgrace. But Winans knows better. The worst that can happen him is not to get a renomination; but this is as likely to happen to a pure man as to him, and even more likely. Moreover, all through Western New York there are plenty of cases in which farmers and lawyers have gone to Albany as legislators for one winter, and come back rich, without meeting with any social reprobation. The charge of corruption made against a man by the newspapers does not hurt him much, because it is made against the best men, when they displease the party, and was made against even such men as Trumbull and Fessenden during the impeachment trial. So our advice to Winans is, to be of good cheer, put on a bold front, subscribe handsomely to charities, and buy two big diamonds, one for the forefinger of his off-hand, and the other for his shirt front, and eat good hearty food, and drink nothing but water. In this way, he will be able in about twelve months to hold his head as high as anybody.

The movement begun by the Hamilton County Association in Ohio seems to have spread to St. Louis, where a similar organization has been formed, calling itself the "Liberal Republican Executive Committee of St. Louis." It has published a platform demanding "quality of citizenship," a general amnesty, and supremacy of constitutional government; condemning the President's commission of acts of war against Hayti; denouncing the committal to the President's hands, as proposed in the Ku-klux bill, of the right to proclaim martial law, and suspend personal liberty, even in a condition of actual war; opposing all protective tariffs, or taxation for any other purpose than the raising of "the needed revenue;" advocating an immediate return to specie payments, and opposing an effort to compel the present generation to pay the principal of the public debt; and calling for reform in the Civil Service.

The coal miners and operators have at last erected machinery of arbitration in the shape of a council made up of delegates from both sides, and they have jointly chosen an umpire in the person of Judge Elwell, of Pennsylvania, and it is to be hoped that in this way an arrangement will be reached which will cause an early resumption of labor. The success of the experiment is to be desired most earnestly, with regard to future differences as well as with regard to this one, for it is the civilized, as distinguished from the savage, mode of ending disagreements between employers and employed.

A Mr. John Stiles, of Washington, being applied to by the Secretary of the Free Trade League, a few weeks ago, under the impression that he was a free trader, for facts showing that it was not the tariff which caused emigration from Canada to the United States, wrote him a saucy letter, overwhelming the League with a solemn opinion that it was the tariff and the tariff only that drew population over the border. This Mr. Stiles sent to the *Tribune*, which published it conspicuously, and must have laughed over the League. It now turns out, however, that the wretched Stiles was, one short year ago, a free trader, and applied to the League for the beggarly sum of \$50 or \$75 a week, to enable him to carry on a "thorough free-trade paper," named the *Saturday Evening Visitor*. The League refused the money, and soon after Mr. Stiles's "views" seem to have undergone a change, and he has since evidently made a careful study of Mr. Greeley's

writings, as his last letter had an amusing amount of that "plain but wholesome" savor which so strongly characterizes Mr. Greeley's economical disquisitions.

Business shows no signs of increasing activity, although the distributing trade continues fair. Dry-goods have been rather firmer, and the sales as a general thing more satisfactory. In other branches the complaint is general of accumulated stocks and tendency to lower prices. The export trade continues dull, cotton about steady, in spite of uninterrupted heavy receipts, the English market absorbing the supplies with unexpected readiness. Breadstuffs continue firm, the European demand is good, and stocks on the coast are light; but in the interior a large stock is believed to be on hand, and, with the early opening of canal navigation, will soon be in market. The diminished exports and continued large imports keep our foreign exchanges at the specie-shipping point, and one or two important parcels of American coin have again gone forward; but gold, which alone seems to resist all speculative influences, has advanced barely one-half per cent. In the stock-market the great bull-combination have things all their own way; but although the brokers have pretty much all turned speculators, from the dearth of legitimate orders, there is no increase to the participation of outsiders. Money is easy, the banks being free lenders, and prices of all securities are very high. But there are not wanting persons of judgment who anticipate a further great advance in figures. Governments dull and steady; the funding progresses slowly. Failures, defalcations, etc., are again the order of the day. The affairs of the Commonwealth Fire Insurance Company, recently closed by the Superintendent from Albany, disclose, in addition to mismanagement, apparent fraud and indifferent supervision on the part of the directors.

"The more than ever heroic city of Paris," under her more than ever illustrious Commune, has had another week of revolutionary and military glory, such as all other cities emulous of the sublime may justly envy her. She has confiscated the silver plate of the ministerial residences; ransacked or taken the inventory of churches—and that in accordance with a decree separating the church from the state; decreed pensions to widows and orphans—legitimate and illegitimate—of her fallen heroes; organized a system of requisitions; re-established the syndicate; founded a general metropolitan court-martial; judged heroic warriors and sublime world-regenerators—like Bergeret and Assy; refused passports to women and children, while causing hundreds of thousands of her citizens to fly out of her walls; ordered the demolition of monuments; erected batteries, barricades, and earthworks in her principal thoroughfares; thundered from all her forts; and driven her sons to the ramparts and out of them to earn by Spartan deeds—under a Sarmatian commander—the immortalizing praise of that hero of two worlds, Cluseret, the friend and disciple of George Francis Train. And all this she did while still mourning her revolutionary darling, Flourens, who was cut down with a sabre before achieving the necessary disguise after the flight from the battle-field of April 2, and his worthy fellow-commander, Duval, who, before he was the chief of an army, had attained the rank of chief of *claqueurs* at the Beaumarchais Theatre.

Not all the original heroes of the Commune, however, had met with a glorious death in the grand manœuvre of April 2. General Bergeret survived the shock of defeat and returned to Paris—to be brought before a military commission for coming back neither with his shield nor on it. General Granier or Ganier, the shopkeeper and commander of Montmartre, had fortunately resigned his high command before General Flourens and General Duval led the hosts of the Commune against Versailles. General Lullier, the ex-marine, was then luckily laboring under a momentary eclipse, being regarded by some as a traitor to the cause, and by others as cracked; he has, however, revolted and set up a republic of his own, consisting of himself and "200 determined men." General Eudes—this turns out to be his right name, he being not a Spanish Lafayette, but an *émeutier* of the

"La Villette riot" of August last—also remained among the living, and probably General Brunel too, the "ouvrier," who, in the earliest days of the present revolution, formed with the *émeutier* aforesaid and with *chef de claque* Duval a military triumvirate, but has since vanished from the foreground of the scene. All these having one way or other deserved the thanks of revolutionary Paris for not despairing of the Commune, a live Polish officer, Ladislas Dombrowski, volunteering to hold the chief command, and Cluseret volunteering to organize victory in the capacity of a Carnot, even without the financial support of George Francis Train—not gratis, however, we suppose—it is quite natural that war *à outrance* was again and again lustily proclaimed from the barricaded Hôtel de Ville, with the approval of that leading citizen, Bourset, the liquor-dealer, and amid the applauding screams of mistresses decreed to be wives and expectant of pensions.

Fortunately this splendid but rather bloody game of civil war, the last scenes of which are too contradictorily reported to be spoken of in detail, threatens to be more short-lived than the Commune would like to make it for the benefit of an admiring world, and that for very prosaic reasons. The common people of Paris, and among them some who have to do the fighting, are getting hungry again, and have besides lost all relish for siege-food, such as horse flesh, donkey, rats, and cats; Prussians occupying and reinforcing the forts to the North and East of the city, and Versailles troops operating on the West and South, cut off almost all communication with the country; distrust, fear, and despondency gradually creep into the hearts even of the heroic citizens and "citizenesses"—in the language of "a besieged resident"—as they see that all the admiration they meet with is not sufficient to create armies of relief or imitation insurrections in the provinces, the stupid "rurals" continuing to prefer Thiers and the National Assembly to Blanqui and the Commune; reinforcements are steadily arriving both for the Prussians and the forces of the Versailles Government, for the latter also from Germany; MacMahon, Léadmirault, Vinoy, Ducrot, Cathelineau, and Charette, are all in full earnest, in spite of checks and difficulties; Thiers listens to no proposals of a treaty made to him in the name of the "free and sovereign municipality of the Universal Republic," though he is ready to purchase a surrender at the price of rather exorbitant concessions; and Paris—revolutionary Paris herself—is getting tired of the affair. She has shown great apathy in her supplementary Communal elections, and she even delays the demolition of the column at the Place Vendôme. It looks as if she were going to betray "venerable" Blanqui, Lycurgus Assy, Hector Dombrowski, Carnot Cluseret, and the shades of "le grand Gustave" Flourens and Claqueur Duval.

Following close upon the admirable self-restraint which the Germans have shown in their peace *réjouicings*, comes the Reichstag's address to the throne, in which the peaceful disposition and mission of the new Empire are asserted in the most solemn manner. It thanks Kaiser William most of all for having guaranteed the German people against further attacks from France, whose present calamities, it says, only enforce the truth—"which has never been disregarded with impunity"—that the mightiest nation may be dreadfully led astray if it does not prudently confine itself to the full development of its inner life. Germany itself, it adds, has suffered most from this intermeddling with the affairs of its neighbors; but now, armed only for defense, it cannot be diverted from the works of peace. Without being influenced by prepossessions or prejudices, it freely concedes to every nation its progress to unity, and its constitution in the form which suits it best. "The day of interference with the inner life of other peoples, under whatever pretext and in whatever mode, is, we hope, gone never to return." Such, with a few words as to the legislation necessary for temporary and permanent necessities, and the prospects of a successful reabsorption of Alsace, was the substance of the address, the debates on which, however, were, by the reinforced Catholic delegation, turned almost exclusively upon religious matters, as if the immediate and urgent question were how to postpone or how to provoke a war with Italy.

THE FORCE BILL.

ITS MILITARY FEATURES.

In passing the statute popularly known as the Ku-klux Bill, Congress has confessedly entered upon a new field of legislation, in that it has assumed for the first time to take cognizance of and provide for the punishment of acts of violence to the persons and property of private citizens. The bill is artfully drawn, and its intent is veiled in language purposely vague and verbose; but still its design is plain. It means that persons guilty of homicide, robbery, arson, mayhem, assaults, and the like, may be brought within the jurisdiction of United States courts and be punished by United States authorities: it means this or nothing. We are familiar with its historical origin, with the avowed purpose of its authors, and with their diligent care to conceal and yet to accomplish their end by the tricks of language. In the light of these facts, it is our design to examine into the validity of this statute.

Before proceeding to discuss the central idea of the whole legislation, and the essential features in which this idea has been expressed, we must dispose of certain other portions which are rather auxiliary than necessary. The first section is practically of no importance. It is logically the statement of a truism. It substantially enacts that whoever violates the Constitution shall be amenable to certain penalties; but it does not descend to particulars and describe the acts and defaults which shall constitute such violation. If the statute consisted only of this section, it would be equally harmless and valueless. The second section contains two different provisions relating to different subject-matters, and depending upon different principles, although they are grammatically united in one sentence. The first declares that certain enumerated acts of resistance and hostility to the authority of the United States, to its laws, and to its means and measures of administration, shall be crimes, and that the offenders shall be liable to indictment, trial, and punishment in the national courts. This clause is, beyond all question, valid and proper. It is to be ranged in the same class with the statute which makes it an offence to obstruct the transportation of the mail. It has never been doubted that, so far as Congress may legislate, it may enforce its laws and protect the officers of the Government in their administration by penal enactments.

Although the statute under consideration is entitled "An Act to carry into effect and to enforce the Fourteenth Amendment of the Constitution," the third section must be partially, and the fourth section wholly, referred to other portions of that instrument. We here collect all the constitutional provisions to which they can by possibility relate, and which can by possibility be considered as their foundation. "Congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions" (Art. I., sec. 8, § 15). "The United States shall protect each of [the States] against invasion, and, on application of the legislature, or of the executive when the legislature cannot be convened, against domestic violence" (Art. IV., sec. 4). "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it" (Art. I., sec. 9, § 2). The third section under review enables the President, under circumstances therein described, in case of "insurrections, domestic violence, unlawful combinations, or conspiracies in a State," which are to be directed against the authority of that State, to suppress the same by the military, or otherwise, as he may deem proper. For all this there is no support in the clause above quoted from the eighth section of Article I. That clause provides in terms for enforcing laws of the United States by the militia, this statute provides for the enforcement of State laws by the military under the direction of the President; the insurrections spoken of in that clause are, from the context and from the express provision found in Article IV., plainly to be those against the United States, while this statute purports to arm the President with power, on his own motion, to suppress insurrections against a State.

But there is a difficulty of far greater magnitude—a violation of the fundamental law far plainer and more dangerous. This third section enables the President to suppress not only "insur-

rections," but "domestic violence, unlawful combinations, and conspiracies" by means of the military. These latter terms were not inserted without a design. They describe something less than insurrections; they descend in magnitude and criminality until they end in conspiracies, which may perhaps be attended by no overt act, no outbreak of violence. While, therefore, the Constitution only permits a calling out of the militia to suppress insurrections, which are, in fact, incipient wars, Congress has gone to the length of empowering the President to use the military in time of peace in putting down mere domestic violence and in breaking up conspiracies. It is plain that this section of the statute finds no warrant in the clause quoted from the first article of the Constitution, although it is probable that the ingenious author of the bill artfully chose his language, so as to make it appear, by the use of the word "insurrections," that there was a solid basis of validity for his proposed enactment. Nor can this section be rested upon the IVth Article of the Constitution, although that article does not require that an insurrection should be in progress, but makes it the duty of the United States Government, under certain circumstances, to protect a State against mere domestic violence. This duty, however, can only arise upon the happening of one or the other of two contingencies: either the State legislature must apply for aid, or the State governor, when the legislature cannot be convened, must apply for aid. This parenthetical and conditional clause means something; it is the key to the whole position; it describes the sole occasion on which the National Government may interfere with the function of maintaining domestic quiet which normally belongs to the States. We remark, in passing, that it is only by giving full and affirmative force to another and similar parenthetical and conditional clause that Congress acquires the right to suspend the writ of habeas corpus under any circumstances. Congress has utterly ignored this necessary limitation, has treated the constitutional provision as though it did not exist, and as though the article read "the United States shall protect each of the States against domestic violence." There could be no plainer departure from the fundamental principles of the organic law, no clearer violation of its express prohibitory clauses.

The fourth section of the statute is evidently based upon the clause of the Constitution relating to the suspension of the writ of habeas corpus. As there is no pretence of an invasion, Congress has undertaken to define a rebellion. Rebellion is a word well known to all writers upon public law; it has a well-ascertained and precise meaning, and describes a positive fact and not a theory or supposition. Congress, however, has now declared that several different circumstances or conditions, not united but each separately, shall constitute a rebellion—namely (1), when any of the "insurrections, domestic violence, combinations, or conspiracies" already mentioned shall be so powerful as to be able to set at defiance the authorities of the State or of the United States, or (2) whenever the authorities of the State shall be in complicity with, or shall connive at, the purposes of such combinations, and the public safety in such State shall thereby become impracticable. In each of these alternatives, the combination, violence, or conspiracy shall be deemed a rebellion against the United States, and the President may suspend the privilege of the writ of habeas corpus. The Constitution uses the word rebellion in the sense recognized by all jurists. Congress cannot change this meaning, because it cannot change a fact; it cannot make that a rebellion which is not a rebellion. Rebellion is war—war no longer incipient, but actual; it is a condition in which all civil administration is suspended or overthrown, and the nation must, for the time and in the district infected, employ its military arm alone to overcome the insurgent enemies of the Government. It should be remembered that Congress cannot inaugurate a civil war. That state of hostilities must be commenced by the rebels, and must have developed itself into a war, before the peculiar military powers conferred by the Constitution become operative. But this statute contemplates no such state of active hostilities. It makes, among other alternatives, domestic violence, unlawful combinations, or conspiracies, with the purposes of which the State authorities are in complicity or at which they shall connive, a rebellion against the United States. No war is described here, nor even any resistance to the national authority as such, because the combination, violence,

and conspiracies spoken of are to be in opposition to State laws alone. It needs no further analysis of this section to show that it cannot be sustained by the constitutional provision which declares under what circumstances the writ of habeas corpus may be suspended. Congress cannot, by any mere array of words, make that exist which does not exist in fact.

It has been asserted that these several provisions were copied from an early statute, passed in 1795, authorizing the President to call out the militia in certain cases, and that the Supreme Court has decided, in a case arising under it, that the President possesses an unlimited and final discretion over the whole matter of employing the military force. Nothing could be more untrue. The statute of 1795 was carefully drawn, so as to comply with the very letter of the Constitution. It simply declared that "whenever the United States shall be invaded, it shall be lawful for the President to call out the militia," etc.; also, "in case of an insurrection in any State against the government thereof, it shall be lawful for the President, *on application of the legislature of such State or of the executive when the legislature cannot be convened*, to call out the militia," etc.; also, "whenever the laws of the United States shall be opposed or the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, it shall be lawful for the President to call out the militia," etc. All this was plain, accurate, and in exact conformity with the organic law. The case referred to was *Martin v. Mott* (12 *Wheaton's R.*, 19). The President, during the war of 1812, having called out certain portions of the militia, a person subject to the call refused to appear. Being tried by a court-martial and fined, he brought an action against the officer who collected the fine, alleging that there was no necessity for the President's action. The Supreme Court decided that, under the statute, the President alone could determine whether a call of the militia was necessary, and that his discretion over this particular subject was absolute and final. The statute did not assume to define an invasion nor an insurrection, nor did it confer upon the President any such function; much less did it authorize him to decide that to be a rebellion which is no rebellion. The Court went to no such absurd length. It simply and properly held that when the United States shall be invaded, the President alone, by virtue of this particular legislation, must judge whether the use of the militia is necessary. How different from all this is the statute under review. Our President is not now called upon, during the existence of facts patent to all men and which cannot be controverted, to determine simply whether the employment of the military and the suspension of the writ of habeas corpus are expedient; he is to pronounce upon the nature and effects of the domestic violence, combinations, or conspiracies, and to decide whether the State authorities are unable or have failed to protect the people, and whether they are in complicity with or connive at the unlawful purposes; he is to pass judgment upon the acts and defaults of State governors, judges, sheriffs, and juries, and find them to be aiders and abettors of violence, directed not against the authority of the United States, but against their own local laws; by his fiat, he is to raise this domestic violence to the dignity of an insurrection or a rebellion against the nation; he is to make that a war which is no war, and to follow up his decision by the extreme measures only designed for the suppression of actual hostilities; he is, in fact, to be a dictator. Never in the political history of the country has so direct a blow been aimed, under color of legal authority, at the supremacy of the Constitution, or a precedent been established so dangerous to free institutions.

ITS CIVIL FEATURES.

We are now prepared to examine the central idea of the whole legislation, and the essential features in which that idea has been expressed, to which the portions already described, however important and startling, are auxiliary rather than necessary. This central idea develops itself into a plan by which the United States courts may exercise full criminal and civil jurisdiction over any and all acts of violence to the persons and property of private citizens; by which, in short, Congress and the national tribunals may assume and wield a complete police power throughout the States. This is evident from all the remaining clauses of the statute. They all provide, under many

artful involutions of language, that conspiracies and combinations for the purpose of depriving persons of their rights and privileges, or of the equal protection of the laws, shall be crimes against the United States punishable by its tribunals; and that, when any violence or injury is done to person or property in the furtherance of such a conspiracy, the offender may be sued for damages in the United States courts. The third section, in terms, enacts that in all cases of such conspiracies or combinations, if the State authorities shall be unable, or shall refuse, to protect the people in their rights, "such facts shall be deemed a denial by such State of the equal protection of the laws," and the President may thereupon employ the military, and the offenders arrested shall be delivered to the civil authorities of the United States, to be dealt with according to law. All this can only mean that the ordinary crimes of violence committed throughout the States, and the ordinary trespasses to person or property, are justiciable in the national tribunals. The extreme care with which the word conspiracy is everywhere used does not change this result. A conspiracy is in no way essentially different from an offence done by one, or by many, without concert. A conspiracy to murder, if consummated, is only murder; it simply involves more than one guilty person, and, after the union in criminal purposes has been established, makes each participant responsible for the overt acts of the others. There is no legal magic in the word conspiracy, no power to confer jurisdiction, and no strength is added to the statute by its use. If valid now, it would have been equally valid had its penalties been applied in terms to acts of violence done by single persons.

The main argument which has been employed in support of the measure is the following: The supreme government in every nation must be assumed to have full authority to protect its own citizens in their lives, persons, and property, for that is the final object of all good government. The United States is no exception to this rule. Even if the Constitution contains no express grant of power, such power must be implied in the very existence of the nation and its government, and can only be wielded by the national legislature. It would be a contradiction in terms to say that while the United States may legally use all measures to protect its citizens abroad, it is powerless to afford them any protection at home. It is now conceded that the very idea of a nation involves the power to use, and the necessity of using, all means for self-preservation, and for the same reason, and to the same degree, does it involve the power and necessity of using all means for the protection of citizens. The statute is based upon, and is fully supported by, these political truths. We have thus fairly given the argument, and have certainly not diminished its force by our statement. The premise upon which it rests we fully concede. It is an axiom of political jurisprudence, that the government which exercises sovereignty in a nation must have authority to protect the citizens at home and abroad, and the United States is no exception to this rule. But the difficulty in the argument—a difficulty which cannot be obviated, and which destroys its entire force—is that, by the Constitution of our own country, no single government is clothed with the complete functions of legislation or of administration; none exercises the complete sovereignty which the people alone as an organic whole possess, and which they alone can delegate. The exercise of a large part of this sovereignty, and, so far as national purposes are concerned, the most important part, has been exclusively committed to the national government. The exercise of another large part, which peculiarly relates to all domestic matters, the rights of person and property, has been in like manner exclusively committed to the governments of the separate States. Within their respective spheres, these two classes of governments are as independent as though they represented different nations. The Supreme Court has repeatedly affirmed this doctrine in the most solemn and effective manner, and only within the past few weeks has reiterated it with an emphasis which cannot be mistaken, and applied it to abridge the national attribute of taxation. It makes no difference with the truth or the application of this principle what theory we adopt as to the origin of the Constitution and of the nation: whether we consider the nation as a union between originally independent States, and the organic law as an assemblage of powers delegated by them; or whether we consider the people as from

the first a sovereign unit, and the national and the State governments as equally their handiwork, the same practical result must follow. Because the United States Government is the sole representative of the country to the whole world, the function of protecting the citizen while abroad was exclusively confided to it. On the other hand, the function of protecting the citizen at home, of preserving personal security, property, and order, by legislation, and of enforcing these laws in the courts, was exclusively confided to the government of each State within its own territory. For that territory, and for its inhabitants, it was made the sole depositary of the people's sovereignty so far as respects the private rights of life, person, and property. This is confessedly the theory upon which the Constitution is constructed, and from this theory the Supreme Court has never departed, and the Congress had never departed until now. It is not claimed that without the Fourteenth Amendment there exists any clause of the Constitution which, either directly or impliedly, authorizes the legislation under review, and we now see that the argument which finds the authority in the very notion of a supreme government is a fallacy, because in regard to this very matter of internal protection the national government is not supreme.

We are brought therefore to the Fourteenth Amendment, and, in order to discover its legitimate effects, must first ascertain its design and the evils it was intended to remove. Prior to its adoption, classes of citizens within a State might be exposed to injustice and oppression from the local legislation. The comprehensive bill of rights contained in the first eight amendments applied to the action of Congress alone, and did not control that of the States. If oppressive and discriminating statutes were passed by the State legislatures and upheld by the State courts, the injured parties were remediless, because the Supreme Court of the United States could only expound these laws under the guidance of the construction put upon them by the local tribunals. This was a great evil, and there was danger lest it might become greater. To remedy it, the Fourteenth Amendment was adopted. This was the sole design of that most just and beneficial change—a change which brought harmony and unity to our entire governmental system. The amendment says, in a few plain words which admit of no nice and technical construction, "No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." The State is here directly addressed and limited, and not its private citizens nor its constituted authorities. How can a State violate these prohibitions? Certainly in no other way than by an organic act, and the legislature, being the supreme power in a State, is its sole organic representative. In other words, the only way possible for a State to violate this amendment, the only way possible for the amendment to be violated by any one, is by the passage of a law in conflict with its mandates. The sole effect of the amendment upon such a law is to make it utterly null and void. This particular provision of the organic law needs no legislation to enforce it; it enforces itself; its effects are felt directly and at once; it is exactly similar in this respect to the clauses which forbid the States from passing bills of attainder, or *ex post-facto* laws, or laws impairing the obligation of contracts. The only department of the Government which it can ever call into action is the judiciary.

We must now compare this result with the statute which Congress has seen fit to pass. This statute is not directed against any State laws, and is not based upon the assumption that they are improper, unjust, or void. On the contrary, it concedes their correctness and validity, and aims all its penalties against private citizens who break them. It has to do with acts of private violence, and declares them to be not only a denial to the parties injured of the equal protection of the laws, but a denial made by the very State whose authority is outraged. In one portion it is expressly said that if the constituted authorities of a State—that is, the governor, judges, sheriffs, etc.—shall fail or be unable to protect the people, such fact shall be deemed a denial by such State of the equal protection of the laws. The other portions require no such official default, attempt no such definition, and are aimed exclusively at wrongs done by individuals. It is a monstrous perversion

of legal language and legal thought to maintain, as this statute does, that any violence or wrong done by private citizens, either singly or in numbers, either with or without concert, can constitute the denial of the equal protection of the laws contemplated by the Fourteenth Amendment. Every crime done to person or property is, so far as an injury is committed, a denial to the party molested of the protection which the laws afford. If, therefore, the position assumed in this statute be correct, Congress and the national courts may, with equal propriety, draw to themselves jurisdiction over all crimes, and become the sole guardians of order, the single depositaries of the police authority. Nay, they may, according to well-settled rules of constitutional construction, oust the State governments and State tribunals of all jurisdiction over the subject-matter, and thus establish a centralized administration. In fact, such is the logical and necessary tendency and result of the statute. It is no less monstrous to impute to a State in its organic character the defaults or incapacities of any of its executive or judicial officers, and to enact the falsehood that such defaults shall be a positive denial by the State of equal protection. Constitutional authority and jurisdiction cannot be thus acquired by a lying quibble.

The foregoing careful analysis was necessary to demonstrate in a clear manner the invalidity of all the important and practical provisions of this new measure. To sum up the results: The statute violates the letter of the Constitution by declaring that to be a rebellion against the United States which is nothing more than violence to individuals, and by permitting the writ of habeas corpus to be suspended in time of peace; by authorizing the President to employ the military forces in repressing opposition to State laws without any application from State authorities; by extending the prohibitions of the Fourteenth Amendment to cases of private wrong; and by clothing the national courts with jurisdiction over ordinary crimes and with the function of ordinary police repression. It violates the entire spirit of the Constitution by conferring upon the President in time of peace a military discretion which belongs to him only as Commander-in-chief in time of actual war; and by destroying the separate—although subordinate—Independence of the States within their appropriate spheres, which was firmly established in the Constitution as an essential feature of our institutions.

SEX IN POLITICS.

OWING to the interest excited by the condition of the city and State of New York, and the condition of the South, and by the condition of France, all of these countries being nominally governed by a numerical majority, and all badly governed, the foundations on which democratic government rests are receiving a probably more serious and thoughtful examination than they have ever received before, much talk as has been expended on them in various ages. There is this enormous difference between the discussion of democracy which is now raging and all discussions of it which have been carried on heretofore, viz., that the debaters have their subject before them. Hitherto, democracy has been discussed in very much the frame of mind in which men speculated on the form and habits of dragons or the scenery of the Hesperides. All propositions laid down about pure democracy were strictly *à priori*, and one was, consequently, about as defensible as another, and the argument furnished an admirable means of sharpening the wits, as there was no earthly means of bringing it to a conclusion. Now, however, we have at last got the thing itself under our very eyes, and the debate has—and one might almost say suddenly—assumed a gravity, and even a solemnity, it has never before had. It used to be a pleasant exercise for clubs and speculative philosophers; it is now shaking society to its centre. We used to wonder what its effect would be on manners and clothes and public conveyances and literature. We are now considering what effect it is likely to have on property and marriage, or, in other words, on the two things which are to every man and woman the most serious interests of this mortal life.

The time of rest and tranquillity which the more ardent spirits are constantly promising themselves as the result of this or that change in the government or in the social organization is either never to come, or its coming is so far off that for us it has no more practical

interest than the probable duration of the supply of coal or of the sun's heat. Under monarchy, life was stormy and full of trouble; under democracy, it will be stormy and full of trouble too; but our duties are much the same under both; and foremost amongst them is the duty of thinking before acting. The heavy reformatory work of the next century will probably consist largely in educating people into taking large views, and especially *long* views, of public policy. That this is going to be a tough job, there is no denying. Anybody who considers seriously what is meant by the conflict between labor and capital of which we are only just witnessing the beginning, and what is to be done to give money legitimately that influence on legislation which it now exercises illegitimately, must acknowledge at once that the next generation will have a thorny path to travel.

This leads us to ask whether this is just the time to add one more to the sources of distraction—and distraction here means confusion—by bringing the influence of sex into play in the political arena. We have once or twice called attention to the extent to which the woman's suffrage champions escape the grand difficulty of their position by treating sex as simply a physical difference, in no way affecting character. Mr. Mill started this theory by the extraordinary assertion that the differences between men and women were no greater than would exist between lord and (male) serfs who had been kept systematically for ages in the same state of subjection as women. His disciples in this country have improved upon it, and now invariably treat the exclusion of women from political life and certain employments as a pure piece of tyranny, having no better foundation than selfishness. In nearly all their discourses, the sexual passion is either ignored altogether or treated as a vice which is not worthy of consideration at the hands of politicians, and which will either disappear altogether as society grows in moral culture, or else simply incline men and women to sensible and happy matrimony. They take it for granted, as an axiom of social science, that in the natural state of things men and women could meet together for business on precisely the same basis as men, and discuss, vote, and co-operate with perfect freedom from all disturbing influences, other than those which operate on assemblies or companies of one sex only. They would have us believe, for instance, that if half the Assembly at Albany were composed of women, although measures might be carried under the influence of corruption, as now, votes would not be influenced by sex; and that though the power of evil might triumph, it would triumph through the aid of female fascinations.

Now, we are not going to argue directly here against female suffrage. If the men and *women*—for, assuredly, so tremendous a change should not be introduced without taking the sense of the women on it also—of the country desire it, we know of no reason why they should not try the experiment. What we insist upon is, however, that they shall go into it with their eyes open, and after full discussion, so that we shall not, twenty years hence, hear such wailings and lamentations as we now hear in this State over the elective judiciary with which people saddled themselves in a burst of rashness in 1846. We protest most earnestly against women's being admitted to the franchise by driplets, and dodges, and surprises, under the policy which the suffragists are now pursuing in various parts of the country, and which consists mainly in bullying or seducing solitary or timid or muddleheaded registers or inspectors of election, in remote districts, on unimportant occasions, into letting women enrol themselves as electors, or drop their ballots into the box. Their idea doubtless is, that if this is done often enough, and over a sufficiently wide area to familiarize people with the spectacle of women's voting, and to make it seem illogical not to let them all vote, the suffrage will at last be conceded, on the ground that whatever the general merits of the question may be, it is too late to resist. Now, it may be that the admission of women to the franchise would be a great gain, but it may also prove a tremendous evil, which would positively throw civilization back a century or two. Women have thus far played so small a part in the heavy and active work of life, that the materials for prediction as to the part they would play in politics are very scanty. The arguments in favor of their admission are, thus far, all *a priori*, and it must not be forgotten that the women most busily engaged in the advocacy of it are picked specimens of their sex—that is, either women of great vigor or of a singularly mas-

culine type of mind, or very slenderly influenced by what we may call the sexual side of character. To act on any argument which has yet been laid before the public, and in that profound darkness in which we now sit as to *women's* capacity, would be, we do not hesitate to say—no matter what its results might prove—one of the most stupendous pieces of folly of which any community was ever guilty. It would resemble, in many respects, the conduct of the young women in the country districts of whom we read in the papers every now and then, who marry plausible, good-looking adventurers on a week's acquaintance. No doubt, in many of these cases, the match turns out well; but in a large number the husband runs off with the bride's trinkets and money, after a few days' of honeymoon; and no apostle has ever yet risen up to proclaim that because there was a chance of the stranger's proving an honest man, this was a wise way for a young woman to enter the gates of matrimony. We mean nothing disrespectful to the woman's suffragists by this comparison; we simply intend to show that there are certain great rules of human conduct by which communities no less than individuals are bound to walk, and in disregard of which no enduring happiness is to be found.

We confess for ourselves that there is nothing which has inspired us with as much distrust of the movement as the persistence with which its promoters ignore the influence of the sexual passion on nearly every field of human activity. No people can safely heed the political counsels of persons who take no note of this most tremendous of all the social forces. Let us go back ever so far into the night of ages, and we find it there, shaping nearly every one of the problems by which the race has ever since been vexed. Go down as far as we can into the recesses of human character, and we find it there, it may be enriching and elevating, it may be dwarfing and degrading, but still active and potential. There is no custom or habit which it has not originated or colored; no war or migration which has not owed something to its instigation. It has had to do with the building up and the downfall of great empires, and with the fighting of great battles. It has blasted some of the greatest names of history and adorned others. It has been, in short, the source in all ages of the greatest virtues and the foulest vices. In fact, if history as well as individual experience teaches us anything clearly, it is that no system of society or government which does not take note of its tremendous energy can hope for a long or prosperous existence. No man can tell what would be the effect on such persons as now compose our legislatures of the accession of a body of the kind of women who, *in all probability*, as soon as the first excitement and novelty was over, would devote themselves to the work of politics. They might be Motts, Howes, and Livermores, but, reasoning from experience, the great mass of them would be—but we will not mention names; and we should then have added to the corruption of money, which is bad enough, a deeper, and darker, corruption still.

What has passed in Washington, in the case of the Vinnie Ream statue, is enough to set thoughtful people thinking very hard. We know of nothing against Miss Ream's character, but there seems to be no doubt that the serious business of making a statue to a public man—the honoring of whom, at this moment, is a solemn duty—was in her case committed by legislators to a young person, and a large sum of public money voted to pay her, who had never made a statue in her life, in disregard of the claims of a dozen American sculptors of established reputation, under the influence that comes from curls, and bright eyes, and the pats of a pretty hand, and the beseeching tones of a soft voice. In other words, legislators did what legislators have done a thousand times before, made asses of themselves under the influence of what are called "female charms," but which, for the purposes of this discussion—which requires exceedingly plain speaking—we shall call by its proper name, the sexual passion. Suppose this influence to be organized and systematized in the person of a large body of female members of Congress, and brought to bear on land-grants, subsidies, tariffs, charters, and public offices, what kind of thing would our legislation be? What kind of place would the republic soon become if every State capital was a stage on which female adventurers could push their fortunes, cheek by jowl with the Irvings, and Tweeds, and Morrisseys? A

curious and striking illustration, too, of the constant preoccupation of the lower order of female suffragists, with the probable influence of this passion on all relations of men with women, is found in the fact that they account for hostile comments of a leading newspaper on their own performances, or those of their favorites, by ascribing them to the editor's having offered his hand and heart unsuccessfully to divers female agitators, lecturers, authors, and poets. Fancy the Washington correspondents, who now so freely ascribe base motives to the opponents or supporters of this or that measure, telegraphing long speculations as to the probable influence of Mr. Smith's *liaison* with Miss Brown on their both voting against the San Domingo annexation or the duty on pig-iron, and we shall have some idea of the sink of iniquity into which a false step in this matter might convert the capital.

THE EDUCATION OF MINISTERS.

ONE meets every now and then with statements very like the following, which we cut from a recent number of the *Christian Union*:

"Prof. Seeley, in an article in his volume of *Miscellanies*, every page of which is valuable, draws the attention of the English people to the great defects of 'the church as a teacher of morality.' He draws a very dark picture of the unpractical, indirect, dogmatic, formal character of the teaching of the English Church. We cannot think that the American pulpit, in any considerable portion of it, deserves the serious strictures he lays upon the English. But we are convinced that morality, supported by religious sanctions, needs to be taught in all American pulpits with far more system, far more detail, far more urgency, and far more study on the part of the preachers. If, in place of so much general speculation, poetic discursiveness, ingenious discussion, and vague sentimentalism, much more of mere dogmatic iteration of truths that lose their meaning in their familiarity, we could have Honesty discussed in its principles, its trials, its temptations, its specific, practical difficulties, would there not be found a draught on religious faith which would make it much more real than when faith is discussed without reference to actual life? Mrs. Opie on Lying, or something better, needs to be reproduced in the pulpit. People's attention must be directed to their duty to their children in their education, government, dress, manners, and morals. We want, too, our social and political duties treated in some other way than by spasms of eloquence in moments of great social sins or political campaigns. If morality were treated systematically, all things would come up in course and in due place, proportion, and order. In our judgment, there is more religion than morality about, and religion is often made a convenient substitute for morality. Prof. Seeley says that the only morality the church teaches enough is that of alms-giving. Certainly, between church-going and alms-giving American religion is now somewhat too exclusively divided."

It is somewhat remarkable that a writer who sees so clearly what the proper work of the agency known as "the pulpit" is, and how far short it falls of doing it, should have let the subject drop without going one step further, and enquiring why the pulpit fails to do its work. There is no doubt whatever that every commercial community has undergone a serious deterioration as regards that branch of morals included under the term *bona fides*. In other words, there is more lying, cheating, and stealing, in proportion to population and in proportion to the temptation that comes from want, than there used to be. We believe even the most ardent admirers of "the age we live in" do not deny this. If we go to a lecture, or take up a magazine article in which its superiority to past ages is insisted on, we find that in the selection of points of comparison, common honesty is usually carefully avoided. The orator and writer shows how much more comfort we have in our houses; how much more easily we travel; how much kinder we are to prisoners, and captives, and paupers; how much less flogging of children we do, and so on; but he never says we are more truthful, and just, and scrupulous in our dealings, less prone to tell a good profitable lie, or sand the sugar, or stick bits of lead to the bottom of the scales. In fact, fraud is generally acknowledged to be the vice of our time, *par excellence*. We cheat in buying and selling, in the administration of justice, in the election of public officers, in the passage of laws, in the transportation of passengers, in the insuring of lives, in the administration of trusts. We help even the noblest causes by downright lying. We lie for the propagation of our pet ideas, and for the promotion of our pet charities. It is indeed one of the curious signs of the times, that the temperance advocates should be amongst the most unscrupulous of orators, and that temperance papers should be amongst the most dishonestly managed periodicals in the country; or, in other words, that the extirpation of a vice of which the root is beyond question largely physical, and the prevalence of which is, therefore, undoubtedly likely to be temporary, and its influence

on society in the long run slight, should be sought by numbers of earnest men through the practice of another vice, which is wholly moral, and eats out all that is best in human character. It has taken all but complete possession of the two great classes into which the community is now divided—the capitalists and laborers. The capitalists are cheating in the management of their great combinations known as corporations and in the corruption of legislatures, and the laborers are imitating them by refusing to do good work, and using all their powers to deprive society of the means of making them do it. Flimsiness, brittleness in structure, evanescence in color, slovenliness and coarseness in detail are acknowledged, not only by Jeremiads like Ruskin, but by the soberest and most hopeful observers of our industrial progress, to be the characteristics of articles of modern manufactures, compared with those of even a century ago; and the worst of it is that society encourages them by an enormous demand for cheap imitations of good things, and places its greatest glory in the wide diffusion of these imitations through all classes of the community.

Thomas Carlyle about thirty years ago seemed likely to bring about a powerful reaction against this state of things by his denunciation of "shams," and his exhortations to honest toil and truthfulness, and did produce a deep impression on the young men of that generation, who forthwith began to "emancipate" themselves as fast as they could from the bondage of various social and religious ideas in which they had been bred. But the movement never produced much, if any, effect on practical life, and, indeed, seems never to have gone beyond the process of "emancipation." Many people, having once begun it, were so delighted with "emancipation," that they have gone on "emancipating" themselves ever since, and their mode of leading a new life consists in periodical meetings with persons of their way of thinking for the purpose of hurling defiance at the "old theology," and mentioning the particular portions of it that they consider peculiarly monstrous and absurd; and they have apparently as much confidence in this performance as a means of discipline as if they knew that familiars of the Holy Office were waiting outside for them with the boot and thumbscrews.

The one solid and real effort against the vice has come from the body of art reformers known and ridiculed as the "Pre-Raphaelites." We have nothing to say here of the purely artistic merits of their work. But there is no question that their devotion to truth, and the enormous importance they attached to representing things as they are, whether as they seemed or not, however faulty the artistic result may have been, gave it a very great ethical value, and has exercised, as far as it has extended—which is a very little way, we are sorry to say—a more healthy influence than any reformatory movement we know of on morals. This influence, too, has become more marked, and more valuable, as they have extended the application of their theory to furniture, dress, and the construction and decoration of houses. The pertinacity with which they insist on reality and solidity, or the preservation of the idea of utility and naturalness even in ornamentation, and fight against veneer and shabby imitation, cannot but have, and have had, a healthy influence on the morals both of manufacturers and customers; but then as regards range, it is hardly worth mention. If we look around for any other real fight against lying and cheating, we find uncommonly little to comfort us. The press is supposed to be a great exposé of shams and impostures; but then it is too much of a commercial enterprise not to be something of a sham itself. The omniscience of the editor, the ubiquity of the reporters, the grim determination of the publisher to give Satan no quarter, are all unfortunately for sale; and when things are for sale one never knows how they may turn out.

The only body of men in modern Christendom which can be said to be expressly devoted to the work of reform, without being open to the suspicion of carrying it on as a commercial venture, are the ministers of the various religious denominations. It is melancholy, but true, that the ministry is the last surviving "profession," using the term to indicate a calling pursued purely for its own sake, and with little or no reference to its pecuniary returns. Of the great mass of the community in this and every other country, it is safe to say that they draw from attendance on religious worship the sole reminder they receive that there are such things as questions of morals, that good wages or fair profits are not the great ends of existence, that the opinion of one's fellows does not always settle the question of right or wrong, and that the man who never asks himself, Why am I here? whither am I going? and why do I this, and not that? does not lead a really human life, but that of a dexterous brute. Never since the world began were

questions of morals so perplexing as they are now; never was the rule of conduct, even to the eye of the conscientious man, hidden under such a load of circumstance, and distinction, and allowance, and custom. It is easy to see, therefore, that anybody who sets up to be a teacher of morals in our day must be a skilful casuist; and no man can excel as a casuist whose knowledge of affairs is not very extensive—that is, for the skilful application of moral rules to given states of fact, familiarity with affairs is almost as necessary as for the skilful application of legal rules; and this brings us, though late, to the topic which stands at the head of this article.

Here is Professor Seeley, a thoughtful and religious man, and here is the *Christian Union*, a thoughtful and religious paper, both calling on the clergy for the inculcation, from the pulpit, of practical morality, "for the discussion of honesty and its principles, its trials, temptations, its specific practical difficulties," or people's duty in the matter of "the government, dress, manners, and morals of their children." Now, just consider for a moment what this means. Consider what are the trials, temptations, difficulties, of a broker, or lawyer, or merchant, or railroad man, or banker, or commission merchant, in our day. Their name is legion; to understand them and weigh them, one would need not only to have considerable knowledge of human nature, but a wide practical acquaintance with the political economy and customs of many trades and manufactures and of the money market, and a fair acquaintance with the practice of the courts and with legal history and legal principles. To advise a man of his duty in the matter of "the government, education, manners, and dress of his children," one would have to keep one's self not only perfectly familiar with all that is going on in the educational world, but with the tendencies in society and business which help to make or mar a young man's career; and to prevent one's opinions on all these subjects, even supposing the sphere of one's personal observation to be never so large, and one's experience of life never so great, being crude and narrow and incomplete, one would have to keep up a fair acquaintance with a wide and growing body of literature of various nations. Even if a minister had all this and more, he would, as a teacher of morals in our day, labor under considerable disadvantage as long as he had not himself had a varied and long experience of life and its trials. There is a wisdom which rarely comes but with years, and often only comes with sorrow and disappointment, without which the best equipped philosopher, or student, or observer will, after all, to a great body of persons perplexed by life's problems, be but an indifferent adviser.

But it would be difficult to imagine poorer preparation for such a field of duty as is here traced out than is afforded by most of our theological seminaries. The course of education in most of them is still that which would fit a man to deal out dogmatic theology to a simple agricultural community seriously occupied about doctrines, and sincerely believing in them, and deeply respecting the minister and his office, and rarely brought face to face with problems of morals of which the Ten Commandments did not afford an easy solution. The student is, perhaps, well grounded in ecclesiastical history and literature, in Biblical exegesis, the topography of the Holy Land, Eastern manners, moral and mental philosophy as taught by one school, and homiletics, and he is then sent out into the world to help men to wrestle successfully with the moral difficulties of a commercial society of extraordinary complexity and considerable corruption, which is fast losing hold of its old faith and uncertain or unconcerned by a new one. No wonder his preaching consists largely of "general speculation, poetic discursiveness, ingenious discussion, and vague sentimentalism." What else can it, in the large majority of cases, consist of? Why, it is almost in the power of any lawyer in his congregation to persuade him that a proper regard for the independence of the bar and the due administration of justice requires that a counsellor should occasionally help his client to commit a burglary if he asks him, because nobody can tell, till the case is carried into court and the judge has ruled on it, whether it is really a burglary or not; or for a railroad president to persuade him that playing tricks with the stock of his own road is a pious and laudable operation, which managers of corporations occasionally have to resort to to save the estates of the widows and orphans invested in it; or for a politician to satisfy him that, when he receives a large bribe for putting through a land-grant or subsidy operation which he really believes to be a good thing, he is only doing his solemn duty to his "common country." We venture to assert that there are not ten ministers in the country who are able to collar a knavish lawyer or operator in their congregations, and drive him into a corner, and put him to shame, or to meet a skulking, lazy, and tonguey trades-

unionist on the labor question and show him that, so far from helping his class by making the shirking of work the great object of the laborer's ambition, he is ruining it body and soul. No man can, in short, be a successful moralist in our day who is not a good deal of a jurist, and of an economist, and of a business man and scientific man; and what is done to give ministers even an inkling of jurisprudence, or political economy, or finance, or natural science? We may say almost nothing. Canon Kingsley, in an address to the clergy in England, the other day, called loudly for an infusion of natural science into clerical education, to enable the pulpit to hold its own; but natural science is not enough. As ministers go out into the world now, they are a singularly helpless class. The wealthy knaves pet and subsidize them; the feeblest little huckster that measures out tape by the yard feels himself qualified to disregard their opinion on all matters not appertaining to doctrinal theology. So that, no matter how often a minister is brought in contact with a man whose doings seem to him suspicious, he is fain to follow Dogberry's advice to the constable: "to take no note of him, but let him go, and thank God he is rid of a knave."

ENGLAND.

LONDON, March 31, 1871.

WE are just now in a holiday mood. The weather is delicious; parliamentary debates have become wearisome; and in a few days we shall be welcoming the spring, after our fashion. To-morrow the whole of London will turn out at nine in the morning to see whether the Oxford or Cambridge lads can row the quickest. A very exciting race is expected, and from east to west, from what Macaulay describes as "bleak Hampstead's swarthy moor" on the north to "Surrey's pleasant hills" on the south, there is scarcely a haberdasher's shop that has not its show of light and dark-blue ribbons, or even a cabman who does not tie a bit of his favorite color to his whip. The young gentlemen who are the centres of attraction would scarcely change their position for a seat on the Treasury bench, and to-morrow will form an epoch in their lives, often to be remembered in country parsonages or at the mess of legal circuits. The worst of it is that the gentlemen who have ruined the morality of horse-racing are beginning to take their parts in the rising excitement.

On Wednesday last a great gathering took place to witness a ceremonial of a very different kind—the opening of the great Albert Hall. I fancy that I have mentioned that remarkable edifice to you already. It is enough to say that it is the biggest of all rooms in London—that it resembles in appearance the Colosseum of Rome, built of red brick, reduced in all its linear dimensions to one-half, and crowned by a dome of glass and iron. About 8,000 people occupied it, the other day, to hear the Queen pronounce it "open," and to listen to a performance upon the biggest organ in the world. At least 7,999 of the audience had not the faintest notion of the purposes to which this gigantic room is to be applied; and there is only, as far as I can make out, a sort of *a priori* impression that, as there is a very big room in the midst of a huge population, it must be possible to make some use of it. The Bishop of London prayed that the designs of its founders might be fulfilled, and that it might not be applied to immoral purposes. The last is a modest petition, which we may hope to see fulfilled; the first requires a certain amount of faith, not only in Providence, but in Mr. Cole, the energetic ruler of the little cluster of museums and schools of art which is growing up at South Kensington. In one way or other he has done so much, in spite of a good deal of abuse, that, for my part, I hold that he will make something of the Albert Hall. But my faith is of the unreasoning kind, and is not shared by all men. Meanwhile, it is safe to say, that if the Hall, and the gorgeous memorial which is rising opposite to it in Kensington Gardens, be taken as measures of the popular enthusiasm for the late lamented Prince Consort, no hero of our own, or indeed of any other time, has ever excited such intense feeling. We have been at work some fifteen years in erecting a monument to the Duke of Wellington, who was a popular man in his day; and, so far from being completed, it has just come to a stop, amidst vehement recriminations between the artists employed and the officials, who won't pay for unfinished work. Indeed, putting together the Duke and Nelson, and all generals, admirals, and royal personages of the last generation or two, their memorials would not be half so conspicuous as the buildings which are to express our enthusiasm for the Prince's memory. Some people say that it is not so much the memory of the dead as the ambition of the living which has been consulted; but the Prince was really a sensible and useful man in his day, and it is a pity that his memory should be "exploited" after this fashion. We shall end by thinking that we have heard enough of him.

The mention of this memorial reminds me that the marriage of the Princess Louise to the Marquis of Lorne took place a few days before, and that one great inducement to be present was the pleasure of seeing the newly wedded couple. The *Times* and the *Telegraph* were fairly unmanned by the performance of the ceremony. They indulged in such beautiful flights of language and effusions of rose-colored sentiment, in short, so many variations on the well-known tune of "Bless ye, my children!" that I feel I ought not to tread in the same steps. I can only beg your readers to refer to the articles in the *Telegraph*, which decidedly maintains its pre-eminence in the style of which Mr. Sala is regarded as the author. We used to laugh, we still laugh sometimes, at American "buncombe;" and we may have occasional pretexts for amusement; but I think we may fairly boast that the British article which most nearly corresponds to it can now be produced at home on such terms as to defy foreign competition. Poor Mr. Matthew Arnold has run some tilts at the *Telegraph*; and has, indeed, lately collected some of his letters into a little book called "Friendship's Garland," of which it is the purpose to prove that his countrymen in general are fools, and that the *Telegraph* is their teacher. I don't think it is in his happiest style of humor; he is hampered by an elaborate fiction about Grub Street and Arminius von Thunder-Ten-Tronckh, and so on; and scarcely writes with his usual delicacy of satire. But Mr. Matthew Arnold, at his best, must feel that he has an up-hill battle to fight. The *Telegraph* has been recently informing us that it has an average daily circulation of over 190,000 copies; and I fear that the immense majority of those who buy it are cased in manifold armor against any weapons suitable to the hands of refined scholars. If they sympathize with the floods of unctuous rhetoric poured out upon the heads of the devoted Marquis and his bride, the British constitution should be safe for centuries.

Meanwhile, to return to the point from which I started, Parliament feels the languor of the approaching season. A debate on the Conference occupied last night, and few less lively entertainments have ever been produced on those boards. Sir Charles Dilke moved a censure upon government for having consented to the Conference. In his view, it was a humiliating concession to the unwarrantable demands of Russia, and, in fact, was simply a sham procedure, meant to cover the readiness with which we swallowed the leek. It is curious to look back upon the feelings with which we regarded the question a few months ago, and the utter indifference with which these remarks were received. Then we felt that we might be on the brink of a war, and a war which, however just, was to be waged for objects about which we cared as little as possible. Now there is only one sentiment which survives in the matter; it was pretty well summed up by one of the speakers in the remark that everybody was glad of the conclusions reached by the Conference, whilst nobody was proud of them. Sir Charles Dilke labored in vain by producing Russian newspapers and passages from official correspondence to prove that we had truckled to Russia, that we had alternately cajoled and bullied the French, that we had given up points in which we were deeply interested, and that we had every reason to be ashamed of ourselves. No member of government even condescended to answer him; and, after a perfunctory debate, he was refused leave to withdraw his motion, and it was negatived without a division. Mr. Bernal Osborne expressed the general feeling when he complained of having been called down on the eve of the Easter holidays "to preside at the flogging of a dead horse;" and he hoped that the result would be a warning to patriotic young members not to come down to the House with their fine sentiments, and then to slink off with their tail between their legs. And so the Russian Conference will be buried fathoms deep in the waters of oblivion, and we shall be able to go to sleep for a time and forget all about it. All that will survive is a homily or two which will be treasured up by politicians with long memories; but it would be difficult to exaggerate the indifference to the whole question which at present pervades the country at large.

And thus we have drifted on in one way or another to the Easter vacation. The cumbrous machinery of Parliament has been creaking along with rather fewer remarkable performances than usual. Government has probably rather lost than gained in public opinion; they have suffered one or two defeats on minor matters; they have on other occasions only carried motions by the help of their opponents, and their radical supporters have grown rather more mutinous than they were ten months ago. Nor has any great amount of work been actually done. The wheels of the machinery already show the customary symptoms of being clogged, and we are beginning to calculate what parts of the bur-

den will have to be thrown aside. On the other hand, the main proposals of the government have been so far carried, and there seems to be little doubt that in one way or other they will be converted into law by the close of the session. The measure of army reform will be carried, in spite of a good deal of hostile criticism from all sides, and it must be admitted that, though far from being all that could be desired, its terms indicate a rapid advance in public opinion. The mere mention of the abolition of purchase was scouted as a visionary and absurd proposal a very few years ago, and now any serious opposition is seen to be hopeless. After all, we live fast in these days, and, when one watches the rate at which ancient landmarks are left behind, it is difficult to say how far we may find ourselves on the way down "the Falls of Niagara." Some of our enthusiastic reformers have apparently been encouraged by such reflections to anticipate the speedy construction of an English Republic, and the workingmen have been accordingly getting up republican clubs in some of the large towns. People who wear black coats are not in a very favorable frame of mind towards such agitations, inasmuch as the present state of Paris is rather discouraging to the class with something to lose. Whether the agitation really means much is a question which must be decided by time, and meanwhile I will only remark that two causes contribute to it at the present moment. The first is the comparative effacement of the Royal Family of late years, and the marked diminution, for one reason or other, of any warm personal loyalty. The second is that an agitation in France always spreads by sympathy to certain classes in England. The International Society is a machine for spreading the contagion of revolutionary sentiment. There is, of course, no want of people to be impressed by the success of the Commune. Prof. Beesly, for example, the most fanatical of the Positivist school, has written a letter to the *Beehive*, the organ of a large number of workingmen, taking up their cause, and extenuating the crimes of which they are accused. Undoubtedly there is a certain stir of republican feeling, which may become of importance if circumstances should favor its growth. For the present, I don't think it is of much significance; and, though the word "republic" is pronounced more frequently than has been hitherto the case, it does not seem as yet to indicate any very vehement or generally diffused sentiment. The symptom, however, is rather novel, or, at least, we have heard little of such things since 1848; and, seeing the rapidity with which the old order now yields place to new, it is perhaps worth while to make a note of it.

Correspondence.

SENTIMENTALISM APPLIED TO CONSTITUTIONAL LAW.

TO THE EDITOR OF THE NATION:

SIR: In your comments of the Week, in your last issue, you refer to the "Ku-klux Bill," so-called, which is now a law, as a measure which, if passed, will prove "a precedent of the most shocking kind, which bad men, in bad times, will not hesitate to use." I am inclined to think you would never have ventured on this criticism had Mr. Sumner's speech on this bill been made before your issue of the 13th went to press. "Give me the centralism of liberty. Give me the imperialism of equal rights." In this noble formula is, I take it, included a final and conclusive answer to your objections to this bill. It is a measure in furtherance of the good cause, and from it no precedent can be drawn in favor of any bad cause. You intimate an intention of further commenting on this measure. Should you do so, I hope you will consider this fundamental distinction.

Neither our Constitution nor any written law ever was intended, or, in the nature of things, could have been intended, to do either of these two things: 1. To hinder the doing of that which is right; or, 2. To protect and perpetuate that which is wrong. Knowing, therefore, as they do, that what they desire is right, and knowing also that what they desire to put a stop to is wrong, the friends of the Ku-klux legislation feel that the constitutional restrictions do not, and were never intended to, apply to them. Was our Constitution meant to protect midnight ruffians? The very suggestion carries its own negative. But you, and the large class of halting brothers whom you represent, continually urge upon us the precedent thus created. Will not bad men claim the same exemption from law should they obtain power? For one, I am very weary of this argument, if, by courtesy, it may be called so. Once for all, we, the good men, know we are right; the bad men know they are wrong; constitutional limitations were intended to protect good men from bad men; and when the bad men are in power, then these limitations will become effective. To argue otherwise is to place good and bad on an equality; to allow nothing to

that spirit of liberty towards which Burke was so tolerant; to say that one law applies to him who wishes well to the race and to him who wishes ill.

Let me suggest a case in point. Wendell Phillips, a few days ago, declared that we should never have peace until half-a-dozen wealthy Southerners were "shot" by order of a "drum-head court-martial." A few years ago, Mr. Phillips was protected by constitutional and legal provisions from continually threatened violence, and pursued the good work in safety under the very eyes of an enraged majority, lashed almost to frenzy by his unceasing denunciations. Now, in protecting Mr. Phillips, the Constitution and the laws only fulfilled their functions, for he was and is a good man, engaged in a good work; when, however, that Constitution and those laws shelter the Ku-klux, they are perverted from their noble design, and should not be allowed to stand between the miscreant and the "drum-head court-martial."

So also of Mr. Sumner. A few years ago, an infamous Supreme Court, through the Dred Scott decision, endeavored to create a centralism of slavery—an imperialism of caste. Zealously and successfully did Mr. Sumner appeal to the Constitution to stay the tide. He was right; and the Constitution stayed the flood. Excuse me for saying that I really cannot understand how a reasoning being, such as in many points you undoubtedly are, can fail to see why a man may strenuously resist a centralism of slavery and an imperialism of caste, and yet strongly advocate a centralism of liberty and an imperialism of equal rights. To me the distinction is too obvious to admit of argument; it is at least as well defined as the evident difference in Wendell Phillips's mind between mob-law as applied to himself, and drum-head court-martials as applied to his opponents.

I do not think any constitution can eradicate the difference between right and wrong—the mastery, innate in the eternal fitness of things, of the good man over the bad man. Every one must on these points evolve a decision for himself out of his own inner consciousness. That honestly done, and himself knowing that he is right, he cannot but be exempt from technical limitations, obviously intended only to restrain the evil-doer or the uninformed. Sumner and Phillips have passed through this process; the precedents they create can never apply, except in the case of men equally good and equally certain they do right. Such are not likely soon to appear again, and to all others the constitutional restrictions apply. In view of this obvious limitation of the effect of the precedents we are now erecting, I fancy you will dismiss from your own mind, and from those of your readers, all further apprehension on this score.

A SENTIMENTALIST.

BOSTON, April 15, 1871.

Notes.

THE third volume of Prof. G. W. Greene's "Life of Nathanael Greene" is among the announcements of Messrs. Hurd & Houghton. "In the Hartz Mountains, and Pictures of Sweden," forms part of the Hans Christian Andersen series. Haliburton's "The Clockmaker: Sayings and Doings of Samuel Slick of Slickville," is to be revived for the series known as the Riverside classics. The same firm have in preparation several juvenile works: "Little Jakey," by Mrs. S. H. De Kroyft; "Tables of Pilpay;" and "Little Folk-Songs."—Messrs. D. Appleton & Co. have in press and will shortly publish the recent lecture on "Lawyer and Client," by William Allen Butler; Dr. O. W. Holmes's "Valedictory Address," delivered last month to the graduating class of the Bellevue Hospital College; a "Treatise on Diseases of the Nervous System," by Dr. Wm. A. Hammond; "Psychology, or the Science of Mind," by Rev. O. S. Munsell, President of Illinois Wesleyan University; "The Antigone of Sophocles," edited by Prof. M. J. Smead, of the University of Georgia; and the following reprints from English works: Dr. Andrew Combe's "Management of Infancy;" Stricker's "Manual of Human and Comparative Histology;" "Fragments of Science for Unscientific People," being essays, lectures, and reviews by John Tyndall; and "Metaphysics; or, The Philosophy of Consciousness, Phenomenal and Real," by Henry L. Mansel.

The *New York Observer Year-Book and Almanac* for 1871 will be found useful for its very full lists of preachers and officers of the so-called Evangelical denominations, and for its tables of particulars concerning the higher institutions of learning, in the United States, as well as for its copious political and commercial statistics. The feature which will proba-

bly do most to ensure its preservation beyond the current use for it is the reprint on pp. 175-187 of the greater part of the first directory ever published in this city. It bears the date of 1786, and is a striking evidence of the paucity of inhabitants and contracted area of New York ten years after the Declaration of Independence. This instrument had not yet been forgotten, it seems, as the names are given of the President (Hon. John Jay), Vice-President, Treasurer, Secretary, and Standing Committee of "The Society for promoting the Manumission of Slaves, and protecting such of them as have been or may be liberated," which met "at the Coffee-house" in Wall Street. This was one year before Franklin was made president of the revived "Pennsylvania Society for promoting the Abolition of Slavery," etc., first organized in 1775. The antiquity of our May movements is seen in the advertisement that "The New York Directory will in future be published every twentieth day of May in each year."

—Some one whose motives admit of considerable speculation has collected in a quarto volume those singular "Letters on the Whipping of Girls, addressed to the *Englishwoman's Domestic Magazine*," which at the time of their appearance made even Englishmen blush for the average British matron. Scarcely any domestic practice could seem, to American families of equal breeding, so unnatural, not to say degrading; and an American mother might find it hard to imagine that these letters could be republished by one not in sympathy with the writers, as a contribution to the history of the manners of the age. The manners of the fifteenth century are amusingly if rather broadly set forth in the "Diary of an Embassy from King George of Bohemia to King Louis XI. of France," which has been literally translated from a contemporary manuscript in the Slavonic tongue, by A. H. Wratislaw. Still other recent English publications, historical or antiquarian, are: the second volume of "The Mansions of England in the Olden Time," by S. Stanesby; "Rambles of an Archaeologist among Old Books and in Old Places," by Frederick William Fairholt, which consists of papers on art in relation to archaeology, painting, art decoration, and art manufacture, illustrated with a great number of engravings; "The Songs of Scotland Chronologically Arranged," with an introduction and biographical notes; "Was Shakespeare a Lawyer?" on the strength of certain passages selected from "Measure for Measure" by H. T.; "The House of Argyll and the Collateral Branches of the Clan Campbell, from the Year 420 to the Present Time;" "The Land of Lorne, including the Cruise of the *Tern* to the Outer Hebrides," by Robert Buchanan; "The Secret Documents of the Second Empire," translated from the papers found in the Tuilleries, by T. Curry. Of books of travel, "Ten Years North of the Orange River," by John MacKenzie, has a present interest, though it treats chiefly of life among the South African tribes; "My First Year in Canada" is by Bishop Oxenden, of Montreal; "Pau and the Pyrenees," by Count Henry Russell, is, as surely as there are invalids, certain to be read; and so is "Turkish Harems and Circassian Homes," by Mrs. Harvey. Three biographies are worth mentioning: "Life and Travels of George Whitefield," by James Paterson Gledstone; Mark Boyd's "Reminiscences of Fifty Years;" and the "Life and Adventures of Count Beugnot, Minister of State under Napoleon I.," edited from the French by the indefatigable Miss Yonge. Two political titles, whose authors are anonymous: "Words of Weight on the Woman Question;" and "Cumulative Voting, its Nature, Operation, etc.;" and, to conclude: "Critical Miscellanies," by John Morley, mainly reprinted from the *Fortnightly Review*; and "On International Reform," by Frederick Seebohm.

—The library of Mr. Kirkup, of Florence, well known to most residents there during the past few years, has been sent to London for sale. It includes manuscripts of great value, amongst others four copies of Dante's "Commedia," viz., an octavo of 1368, written, therefore, within fifty years of Dante's death; another with a commentary of the end of the fourteenth and beginning of the fifteenth century; one with the commentary known as the false Boccaccio; and a fourth of the fifteenth century, on paper, but unfinished. Besides these is a rare collection of old and curious books, amongst which are many on Spiritualism, in which Mr. Kirkup has taken a great interest. The sale will probably take place in July, but we shall endeavor to give due notice of it as soon as determined, with particulars as to the works, etc. Another bit of interesting intelligence which we receive from England is to the effect that Professor Owen will criticise Darwin's last work through the medium of the *Edinburgh Review*. It is expected that his opinion will be other than approving, the more as Darwin has not spared Owen in his book, the general reception of which in England has been very favorable.

—We need not apologize for adding to the sketch we gave last week of the late Professor De Morgan a few remarks of a more critical nature. Among mathematicians he was distinguished more for the completeness of his logic than for analytical facility. His pupils speak of him with warm admiration, but it may be presumed that they gained from him even more of general skill in accurate reasoning than of specific mathematical power. His elementary books, which are not enough known, are excellent, especially for students who have no natural turn for mathematics; and his work on the calculus is unusually complete, and its demonstrations particularly instructive. Of his researches, one of the most noticeable is his paper on triple algebra, which traces out the consequences of certain definitions of symbols in a manner much like that of his formal logic; but for this difficult subject De Morgan's analysis was not sufficiently subtle, and he can only be said to have started the enquiry without having arrived at any valuable results. His best contributions were to mathematical logic. In his controversy with Sir William Hamilton, in 1847, both disputants fought in the dark, because Hamilton's system had never been published, and Hamilton had never patiently examined De Morgan's. All the points of Hamilton's attack were, however, completely disproved. Upon the publication of Hamilton's works, De Morgan renewed the controversy with Mr. Spencer Baynes, who, after an unconditional pledge to produce proof of his position, was compelled to abandon the field. Since that time Hamilton's once celebrated system has fallen into neglect, while De Morgan's commands more and more respect. In point of fact, Hamilton's system, like De Morgan's, is mathematical, but is the work of a mind devoid of mathematical training. It would be premature to try to say what the final judgment of De Morgan's system will be, but it may at least be confidently predicted that the logic of relatives, which he was the first to investigate extensively, will eventually be recognized as a part of logic. The best statement of De Morgan's system is contained in his "Syllabus of a Proposed System of Logic," but his fourth and fifth papers on the syllogism are of later date. De Morgan was a deep student of the history of the sciences to which he was devoted. He wrote many biographical notices of mathematicians in the "Penny Cyclopaedia" and the "English Cyclopaedia," as well as a bibliography of arithmetic. Indeed, the amount of his writing upon various subjects in the two cyclopedias, in the *Athenaeum*, in the *Companion to the British Almanac*, in seventeen or more separate books, and in various scientific periodicals, including the *Journal of the Philological Society*, is enormous, and it is all very pleasant reading for its perspicacity, vigor of thought, wit, and a certain peculiar flavor of style. The last qualities are well seen in his "Budget of Paradoxes," published in the *Athenaeum*.

—The curious phenomenon in the construction of the Greek temples of the better epoch, of a universal curvature of the horizontal lines and a convergence towards a hypothetical point, high above the structure, of the columns, has given rise to a great many hypotheses. The latest and perhaps the best of these has been contributed to a London journal by Mr. W. J. Stillman, who, in photographing the Acropolis as an architectural study, has viewed it probably from more, and more unusual, points than any living person. After remarking that the stylobate (the marble floor on which the bases of the columns rest) of the Parthenon has a curvature so decided as to be easily perceptible even in front, and that all the horizontal lines sympathize, while the columns fall slightly inwards, he gives it as his opinion, that this is done simply to produce an exaggeration of the perspective lines, thus increasing the apparent magnitude of the building. All horizontal lines seen above the eye droop at the extremities, and all parallel vertical lines seem to converge by the natural effect of perspective. If, then, we give the former an actual curvature in the same direction, and the latter an additional convergence, we make the perspective seem to be greater, and produce that variation from the right line which would be given by a building longer and higher. This seems what the builders of the Parthenon wished to do, and the minor differences confirm the theory. The lines of the architraves, which, being higher above the eye, have more *apparent curve*, are given less *real*. Then, as the perspective diminishes the apparent distance between the columns as they recede from the eye, the architect has diminished the distance between the extreme columns, giving greater effect of recession. But this only on the end façades; on the long flanks, the effect produced by the actual perspective is sufficient.

—In due time we may expect of the Prussian Général Staff a professional history of the late war such as it made of the war of 1866. On the French side, not only is there no corresponding organization, but if there

were it could not possibly pass in review its own shortcomings and incompetency. The papers found in the Tuilleries, and of which presumably only those which best served the political objects of the Provisional Government were published, are valuable for the light they throw on the defects of the French military system, and on the blind and ignorant self-confidence of its chiefs, the Emperor included, before the war. But for many important particulars of the operations of the first two months, which cost France its armies and its government, we must depend on personal memoirs, of which thus far the number has been very small. Indeed, the first we can name since Bazaine's official report concerning the surrender of Metz is the "Histoire de l'armée de Châlons, par un volontaire de l'armée du Rhin," which has just been published in Brussels. The work is divided into two parts, one giving the history of the French Seventh Army Corps, and the other the history of the Army of Châlons and the campaign of Sedan. We lack the necessary space for an abstract of this narrative, and in fact for more than a few remarks on the first part of it. Of the Seventh Corps less was hitherto known than of any of the others. It was the last of all to receive its orders and a commander. Its artillery was gathered at Rennes, and as preparations were made at the same time at Brest for a camp of 45,000 men, and the marines were held in readiness to transport large bodies of troops and quantities of munitions to the North, it was inferred that the Seventh Corps was intended to make a diversion from the side of Denmark. On the 18th of July, however, the artillery and engineer staffs were ordered to rendezvous at Colmar, at the opposite extremity of France from Rennes, and it then appeared that the Seventh Corps was to form the right wing of the French army of invasion, holding the line from Mulhouse to Strasbourg, and prepared to co-operate with MacMahon at a moment's notice. The Corps found itself at the beginning of its march supplied with no more camp equipage than would suffice for a single regiment, but trusted to be fully provided at its place of destination, and only feared to be behind the rest in crossing the Rhine. The railroads being overtaken, they lost a whole day at Mulhouse. At Colmar, no provision was made for quartering them, since everybody thought of the advance; nor for feeding and paying them, since the Corps intendant was still in Algiers. They were thus for eight days without organization or unity, and at last learned that their commander was Gen. Félix Douay, with headquarters at Belfort, and that he was astonished that the artillery and engineers had been sent to Colmar. Further delay was caused by Douay's making a trip to Paris, where he was, against his entreaties, detained a week. The result was that the Corps was separated from the Army of the Rhine, prevented from co-operating with it, and reduced to the rôle of a reserve. When MacMahon was threatened at Fröschweiler, it could send him but a single division, without artillery.

—Two recent French publications, "De Froeschwiller à Paris," by Émile Delmas, and "Paris assiégié," by Jules Claretie, are valuable and extremely interesting contributions to the history of the recent war. The author of the first is an Alsatian who, as a volunteer medical assistant, saw many of the battle-fields of the first period of the war, for, with the neutrality which his position gave him, he was able to pass within the lines of both armies. His account is written with the utmost simplicity, there being not a trace of the bombast which one is accustomed to find in Frenchmen who have to write about their country's failures. He exposes the manifold shortcomings of the French soldiers and officers with a calm sorrow that is affecting; and he speaks of the Germans with an intelligent admiration that one seldom gives to one's conqueror—and which, one might fancy, augurs but ill for those prophets who expect Alsace and Lorraine to be so much of an ulcer in the side of Germany. In the beginning he describes the rout of the French army after the battle of Froeschwiller, or, as it is better known, of Woerth. Here a characteristic example of the manner in which the French managed the war met his eyes; he found the captured French surgeons treated as prisoners. Although France had signed the convention establishing the neutrality of those commissioners who wore on the arm a red cross on a white ground, it would seem that the French army was ignorant of the significance of the badge, and in consequence of this ignorance the French surgeons had been considered as ordinary prisoners of war. Some of them had forgotten that there had been such a convention, others had never heard of it. Of course, when their profession was discovered by the Germans they were allowed to tend the wounded; but as their ignorance had cost them the loss, in the general rout, of most of their material, they were able to be of far less service to their suffering countrymen than they should have been. The author himself and his companions had

been mistaken by their own army for spies or *francs-tireurs*; by the Germans they were everywhere treated with the utmost respect and courtesy. It is to this astonishing ignorance rather than to brute ferocity on the part of the French that is due the fact that they often shot at the Prussian ambulances. We also find in M. Delmas' work a long list of telegrams, sent to the Ministry of War from Metz, Strasburg, Verdun, and other places, in the last week of July and the first week of August, in which the officers of the army complain of the lack of certain articles of food and of equipage, and the absence of proper assistants in the Commissariat and the Quartermaster's Department. Another proof of almost incredible incompetence is the fact that the most curiously useless maps were sent to the army, as, for instance, maps of the coast of France to the troops who were to go to Berlin. To the fleet none at all were sent; and in the "Paris assiégié" we find that, with a bitter irony of accident, maps of the Rhenish frontiers were distributed among the army for use in one of the sorties from Paris. M. Claretie exposes also the latest falsehoods of the Imperial Government, which gave to the country no other information of the battles before Metz than an apocryphal account of the driving of Steinmetz's army into the quarries of Jaumont, and of the complete destruction of Bismarck's white cuirassiers. He spares neither the weakness of the Government, the incompetence of the officers, nor the demoralization of the men. Perhaps as striking as any example of the terrible mismanagement of the French is that afforded by M. Delmas' account of the fate of some supplies which he saw almost given to the German army. After the battle of Sedan, Gen. Vinoy, who was retreating with his corps upon Paris, telegraphed to Laon that he had arrived at Marle, only ten miles distant, and asked that bread and grain be at once sent to his army, and that some empty cars should be run down for his disabled soldiers. Six car-loads of supplies were immediately sent on, our author accompanying them. On arriving he finds no one to receive them. He makes his solitary way to the town, which is full of drunken soldiers. No one can direct him to General Vinoy. He meets another general, who regrets that it is not his business, but sends him to some one else. With another he has the same luck. In despair he returns to the station, and with his friends unloads the grain from the cars. Soon a few soldiers appear and carry off half a wagon-load of bread; but the grain they refuse to touch—"it is not their business." M. Delmas returns to Marle and beseeches an officer whom he finds in authority to take some measures to remove the supplies; "the train must leave; the Prussian scouts have been signalled." The officer declines, however; "that is not his business." The train returns with the greater part of the rejected supplies, and the Germans the next day take possession of what grain was unloaded.

—"Paris assiégié" is the title of a journal kept throughout the siege of the city by M. Claretie. He entered the city with Victor Hugo, and by virtue of his position was able to see many of the members of the Government during the whole of that time. He is an ardent republican, and indeed a friend of the Commune, but he was able to oppose the effort of the Reds to mar the harmony of the defense by civil war. Under the date of Nov. 16 he records the death of Mérimée, and mentions a work of his which had been found among the papers of the Empress. It was a little volume containing a story of adultery, called "La Pantoufle bleue," written and illustrated by Mérimée's own hand. In speaking of the heroine, he says: "Her clothing smelt of vanilla. She adored the favorite perfume of the Empress." The story is signed: "Prosper Mérimée, fool in ordinary to Her Majesty the Empress."

—The latest amusement of the ex-Emperor at Wilhelmshöhe was the composition, in January last, of a work on the German military system, which Baron Stoffel's reports, if they had been read when received, would have saved him the trouble of writing. A brochure of 85 pages besides a preface, which alone is of special interest, it is entitled, "Note sur l'organisation militaire de la confédération de l'Allemagne du Nord" (Brussels, 1871). Enumerating the lessons of the war, the author is unsparing in his reproaches of the military chiefs of France, as if his former influence or authority with them, or responsibility for them, amounted to nothing; and he pretends to have been one of those who were well aware and insisted that the military organization of his country bore no relation to its political condition. The Prussian army, "composed not of hirelings but of the flower of the nation, and resting on the principle of authority, which is not in conflict with the rights of the citizen," he pronounces the strongest safeguard a nation can have. The weakness of the French soldier is expressed in his favorite boast: "I serve no man, I serve my country;" a mere pretext, says Napoleon, for faithlessness, scepticism, and perjury.

THE STUDY OF THE CIVIL LAW.*

THERE is, perhaps, nothing more remarkable in modern "progress" than the tendency of the various nations of the civilized world to assimilation, not in manners only, but in legislation. As the power of custom and tradition declines, there is, of course, a general disposition to draw more and more of the principles of jurisprudence from the fountain of "right reason," and this disposition naturally enough is bringing into prominence the Roman Law as the most wonderful application of the rules of "right reason" to human affairs in existence, and perhaps, whether we consider its history or the nature and extent of its services to European society, or its influence on the thought of the Western world, one of the most striking achievements of the human intellect. Its history is marvellous, and the part it has played in our civilization hardly less so. It was built up in the ancient world by the labors of thirty generations of jurists; its growth and its supremacy as a rule of conduct continued through a thousand years of Roman wars and revolutions, and under every form of government. It doubtless, as Mr. Maine maintains, had a strong influence on the formation of the theology of the Western Church; and it was bequeathed by the dying Empire to the barbarians as the best and greatest of its treasures. It presided at the foundation of all the modern states on the Continent; held its place in men's memory and reverence during the dark ages; and formed, on the revival of learning, the object of the eagerest study in the principal universities. It has since then furnished the groundwork of their jurisprudence not only to the "Latin states" of the Continent—France, Spain, Italy—but to Germany and Scotland. More than this, it has supplied the canonists with the principal portion of the instruments by which the great corporation, known as the Catholic Church, has been built up and perpetuated; it has furnished the principles by which nearly all civilized states regulate those great departments of human affairs included under the terms marriage and testamentary disposition; and it has given England and America the basis of their commercial law, and has furnished international law with nearly all its leading rules and with much of its terminology. If the great tribunal of which so many of us now dream, which is to decide all controversies between states and put an end to war, is ever set up, it will be in the Roman Law mainly that the advocates will find the materials for their arguments and the judges the reasons for their decisions.

It is no wonder, then, that as the barriers between nations erected by local custom and by tradition, and by difference of manners and ideas and language and religion, begin to fall away, the great storehouse from which so many ages have drawn legal wisdom should begin to be more and more resorted to. In Germany, as our readers know, the Civil Law is already the subject of an extraordinary amount of study at the universities, not only for its relation to the jurisprudence of the various German states, but as a means of mental culture, and for its use in ethical, historical, and classical studies. In England, after having been neglected for centuries, it is rising once more into importance, under the influence of the general alienation from the worship of precedents so long the most striking phenomenon of English politics and society, and growing power of utilitarian views of legislation.

Mr. James Bryce, already well-known in this country as the author of "The History of the Holy Roman Empire," and now professor of the Civil Law at Oxford, has opened his course by the lecture before us, which is attracting a good deal of attention from the English public, and in which the claims of the Civil Law on the attention not only of the lawyer and politician, but of the man in search of general culture, are asserted with great force and lucidity; and he lays down the proposition, which, doubtless, will startle many, but which can hardly be questioned, that such is the value of an acquaintance with a system of *principles* to any man entering even on the study of the English Common Law, that of two students, one of whom goes to work in the usual way at English law alone, and the other of whom begins with the study of the Civil Law and constructs from it a foundation on which his case law is afterwards to be built up, the latter will, at the end of three years, "prove to be not only a better jurist but as good an English lawyer." "The conspicuous merit of the Roman Law is," says Mr. Bryce, "that it is clear and intelligible. It is a system, instead of a mere congeries of rules and dicta—a system which, although it cannot be exhausted by the labor of a powerful intellect during a long life, may be mastered in its outline and leading principles in six or eight months of properly directed industry. A philosophical mind is at

* "The Academical Study of the Civil Law. An Inaugural Lecture, delivered at Oxford by James Bryce, D.C.L., Regius Professor of Civil Law in the University of Oxford." London and New York: Macmillan & Co.

tracted by its symmetry; the taste is pleased by the graceful propriety of its diction; the learner's interest is kept awake by watching the skill and subtlety wherewith its technical rules are manipulated and kept in harmony with the dictates of equity and common sense."

The study of the Civil Law, out of Louisiana and Lower Canada, is, we need hardly say, scarcely known on this continent. In the general decline of interest in legal and political science which the last twenty years have witnessed, it could hardly be expected to obtain much recognition. In Philadelphia, we believe, a few faithful disciples keep the old lamp burning in the midst of the general indifference. Here, where some of our ablest jurists are absorbed in the task of fighting the battles of thieves and ruffians before judges whom they have corrupted, the Pandects, we need hardly say, have little chance of attention. Indeed, we doubt whether the Civilians to be found in the whole Northern States might not be counted on one's fingers. There are, however, signs of a better day. Professor Hadley, of Yale College, has, for some time past, lectured on the Roman Law to his own classes, and, we are glad to say, has now been invited to deliver a university course at Harvard, which, we trust, will have the effect of rousing the interest of young men in this splendid application of pure morality to the tangled web of human affairs.

THE NORTH AMERICAN REVIEW FOR APRIL.

THE first article in the current number, called "An Erie Raid," is by Mr. C. F. Adams, Jr., and ought to be read in connection with the fifth, on "Lawyer and Client," by Mr. Albert Stickney, of the New York bar. Lawyers have found in General Barlow's letters to the *Tribune*, what the laity may find in these articles, an exposure of the most terrible system of organized fraud, corruption, and violence that what we are pleased to call the civilized world has ever seen. Most of the facts recounted in the *North American* have already appeared, but these two articles put them in a novel and interesting light. Mr. Adams gives, in "An Erie Raid," a pictorial or dramatic form to events which elsewhere have been produced only in their legal or historical order, while Mr. Stickney explains for the benefit of the public the legal transactions connected with the Albany and Susquehanna conflict, in a manner which brings out more clearly than has been elsewhere possible the true nature of these transactions. Our space prevents us from giving our readers any adequate idea of the scope of these articles, and we are obliged to content ourselves with a single extract from Mr. Stickney's, which strikes us as particularly well put. After giving an account of the well-known writ of assistance which was telegraphed from New York to Albany by Mr. Shearman, he says:

"But how far is this to go? You can obtain your writ with the evidence at one end of the telegraph, and the writ at the other end. You can execute your writ with the original at one end, and the sheriff with the copy at the other end. Why not do away altogether with the two useless elements, the evidence and the original writ, and get on with copies alone? Or may we make our own originals? Or may we have our writs and orders signed in blank? Among the glorious inventions of the nineteenth century will be recorded that of obtaining process of court without evidence, and executing process of court without having it. The name of the inventor is unknown; but the glory of the invention lies, as far as yet appears, between Mr. Thomas G. Shearman and Mr. David Dudley Field.

"Non nostrum inter vos tantas componere lites."

The question of the title to this invention has not yet been settled, though it may be inferred from Mr. Shearman's anxiety to defend his use of the telegraph that he, at least, is willing to "go to the country" on the merits. In a letter which has appeared since "Lawyer and Client" was written, he says that service of process by telegraph is no more novel than the introduction of written process must have been to those who had from their youth been accustomed to oral orders. This question ought to be discussed by the Bar Association. The introduction of telegraphic service would be welcomed by lawyers all over the country; every lawyer could have his own galvanic battery; and few such criminals as Ramsey would escape, if not condign punishment, at least an injunction or arrest.

Ernest Gryzanovski, a gentleman whose name is new to the American public, writes a valuable article on the "Origin and Growth of Public Opinion in Prussia." Without showing what is generally known as a scientific turn of mind, it is distinguished by two excellences which are in their way quite as serviceable in political writing—remarkable descriptive power and great impartiality. No one can read this article without finding a great deal that is new and interesting; among other things, a justification of the Prussian interference in Denmark which will convince any candid American that he may as well, once for all, admit that European politics are unintelligible to him. If there is one thing that almost all thinking

people in this country have been agreed upon, it has been that the Prussian descent upon Denmark was an act of ruthless wrong. The belief probably came, like most of our beliefs about Continental politics, indirectly from the English newspapers; but wherever it came from, it was entertained with all that devout conviction which opinions received on authority commonly engender. It is curious to see what Mr. Gryzanovski says about the Denmark war:

"The Prussian interference in Denmark was fully as just and as righteous as the interference of France against Austria in 1859; or, if the one was wrong, then the other was equally so. That foreigners cannot speak of this Danish war without crying, 'Fie for shame!' is a perfectly unintelligible fact. If the doctrine of nationalities is a fallacy, its enforcement in Lombardy was as wrong as its enforcement in Schleswig-Holstein. The incorrigible and persistent cant about 'poor Denmark' shows how vicious and how worthless contemporary opinion is apt to become when those who shape and influence it indulge in loose or lazy habits of thought."

Such is the conclusion of an impartial spectator, whose opportunities for understanding the question have been undoubtedly greater than ninety-nine-hundredths of the editors who formed public opinion upon it on this side of the Atlantic. The sentence we have quoted shows Mr. Gryzanovski's keen and pure style. The most curious thing about the article is the excellence of its English. Perhaps, taking everything into account, less fault could be found with the English of this article, written by a Prussian Pole, than with that of any other in the number.

The literary matter contained in the *Review* is that embraced in the "Critical Notices" and in Mr. Charlton Lewis's essay on Mr. Bryant's translation of the *Iliad*. Mr. Lewis makes a very good article, in which he puts clearly and forcibly the argument against believing that the *Iliad*, let alone the *Iliad* and the *Odyssey* together, was the work of any one man, and discusses with acuteness the various theories of translation upon which various translators have acted. "The reasonable demand upon a translator," says Mr. Lewis, "is that he shall give, in the worthiest metrical form he can command, a faithful expression of Homer's thoughts, telling the story he tells, and setting before us the characters he describes in every situation in which he placed them. He must give us, in noble English poetry, such a picture of the manners, culture, morals, and belief of the heroic age as Homer gives." By "noble English poetry" Mr. Lewis means a metrical form which is in itself fit to express the noblest sentiments, and which has been so used for this purpose by English poets as to be imperishably associated in our minds with the best imaginative products of our literature. Now, what metrical form is this, we would ask? It is not the ballad form, which was the choice of Professor Newman when he undertook the *Iliad*, for that is associated with all that is low, vulgar, and commonplace in the national mind. Nor is it the English hexameter, for while the Homeric hexameter is more musical and less like prose than any form of metre of which our language is capable, the English hexameter is precisely that one among our metres which resembles prose most closely. Nor is the English heroic couplet, fine as it may be, a measure into which we can put the easy flow of the noble Homeric songs. It is Miltonic blank verse, says Mr. Lewis, which most nearly answers the requirements of a translator who tries to convey to us not only Homer's thoughts, and the culture, morals, and manners of the age in which he lived, but also to produce upon us the impression which was produced upon the Greek who stood by and listened while the minstrel sang of the wrath of Achilles or the madness of Ajax. Probably this is so; and English blank verse will be in the future, as it has been in the past, the metrical form to be most favored by those who attempt English versions of the *Iliad*. But the more like poets the translators are, the readier will they be to confess, even in the presence of a version great as Mr. Bryant has made, that between a metre "most nearly answering the requirements of a translator" and a metre which shall enable the translator to give not only the *Iliad*'s thought, but the *Iliad*'s poetic charm, the distance is infinite. Metres have not so much to do with it after all. Perhaps it would be a safe thing to say that, next to a prose translation, a translation into that metre which exacts least distortion of the thought is the best. That our English blank verse merits this praise seems to us the reason why it is most to be praised as the metre for rendering any poetry for which it is not too weighty.

Of the critical notices, all are good, and two or three excellent with a high degree of excellence. Such are the reviews of Westphal's "Methodische Grammatik" and March's "Anglo-Saxon Text-Books." Of the review of White's "Words and their Uses" we may take occasion to say something at another time.

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